

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF LOUISIANA**

<b>IN RE: TAXOTERE (DOCETAXEL)</b>	:	<b>MDL NO. 2740</b>
<b>PRODUCTS LIABILITY LITIGATION</b>	:	
-----	:	<b>SECTION “N” (5)</b>
	:	
<b>THIS DOCUMENT RELATES TO</b>	:	<b>HON. KURT D. ENGELHARDT</b>
<b>ALL CASES</b>	:	
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**PRETRIAL ORDER NO. 4**  
**(Direct Filing)**

## I. SCOPE OF THE ORDER

This Order shall govern (1) cases transferred to this Court by the Judicial Panel on Multidistrict Litigation, pursuant to its Order of October 4, 2016; (2) any tag-along actions subsequently transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Rule 7.1 of the Rules of Procedure of that Panel; and (3) all related cases originally filed in this Court or transferred or removed to this Court. The Order only applies to claims brought by a U.S. citizen or resident based on usage or purchase of Taxotere (Docetaxel) in the United States.

## II. DIRECT FILING OF CASES INTO MDL NO. 2740

A. In order to eliminate delays associated with the transfer to this Court of cases filed in or removed to other federal district courts and to promote judicial efficiency, any plaintiff whose case could originally have been filed in any United States District Court, and that would be subject to transfer to MDL No. 2740, may file his or her complaint directly in MDL No. 2740 in the Eastern District of Louisiana. In doing so, the plaintiff shall, by signing and filing pursuant to this Order, certify compliance with FRCP Rule 11, and be prepared to demonstrate due specific factual inquiry sufficient to immediately participate in discovery and/or substantive mediation, and demonstrate as much to this Court upon inquiry by the undersigned.

B. Subject to the provisions of Paragraphs C and D, Defendants shall not at this time assert any objection of improper venue pursuant to Fed. R. Civ. P. 12(b) as to any Taxotere-related cases filed directly in the Eastern District of Louisiana that emanate from districts outside the Eastern District of Louisiana, and that are filed in this multidistrict litigation proceeding. Defendants' right to do so shall be reserved and may be urged after receiving leave of Court.

C. Each case filed directly in MDL No. 2740 that emanates from a district court outside the Eastern District of Louisiana will be filed in MDL No. 2740 for pretrial proceedings only, consistent with the Judicial Panel on Multidistrict Litigation's October 4, 2016, Transfer Order. (Rec. Doc. 1).

D. Upon completion of all pretrial proceedings applicable to a case directly before this Court, pursuant to this Order, this Court, pursuant to 28 U.S.C. § 1404(a), will transfer each case to the federal district court in the district where the plaintiff allegedly was injured or where plaintiff resided at the time of his or her alleged injury, after giving the parties an opportunity to meet and confer and be heard on the issue. Defendants will not assert any objection of improper venue pursuant to FRCP 12(b) upon transfer consistent with the provisions in this paragraph and this Order, unless otherwise permitted by the court to which such case is transferred under this paragraph.

E. Nothing contained in this Order shall preclude the parties from agreeing, at a future date, to try cases filed pursuant to this Order in this District.

F. The inclusion of any action in *In re: Taxotere (Docetaxel) Products Liability Litigation*, MDL No. 2740, whether such action was or will be filed originally or directly in the Eastern District of Louisiana, shall not constitute a determination by this Court that venue is proper in this District or that this Court has personal jurisdiction over any named party. Likewise, nothing in this Order shall be construed as a waiver of personal jurisdiction by any named Defendant,

served or unserved. The references to “Defendants” herein shall not constitute an appearance nor waiver of service by or for any Defendant, not otherwise properly served.

G. Any case filed directly in MDL No. 2740 pursuant to this Order will have no impact on choice of law that otherwise would apply to an individual case had it been originally filed in another district court and transferred to this Court pursuant to 28 U.S.C. § 1407.

H. When asserting a statute of limitations defense in response to any complaint filed directly into MDL No. 2740 pursuant to this order, the filing date will be deemed to be the date that the case was filed in the Eastern District of Louisiana.

I. The caption for any complaint that is directly filed in MDL No. 2740 before this Court shall bear the following caption:


**IN THE UNITED STATES DISTRICT COURT FOR  
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**IN RE: TAXOTERE (DOCETAXEL)  
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: **MDL NO. 2740**  
:  
: **SECTION “N” (5)**  
:  
: **HON. KURT D. ENGELHARDT**  
:  
:

New Orleans, Louisiana this 9th day of December, 2016.

  
**KURT D. ENGELHARDT**  
**UNITED STATES DISTRICT JUDGE**